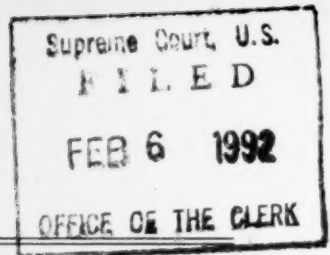


(2)
No. 91-1041



In The
Supreme Court of the United States
October Term, 1991

GREGORIO D. TAITAGUE AND HENRY BLAS,
Petitioners,
v.

FIRST ISLAND INDUSTRY, INC., A GUAM CORPORATION; CALVO'S INSURANCE UNDERWRITERS, INC., A GUAM CORPORATION; OXFORD PROPERTIES AND FINANCE, LTD., A HONG KONG CORPORATION; THE ESTATE OF MARIA TORRES MARTINEZ, DECEASED, BY FATHER VICENTE T. MARTINEZ, ADMINISTRATOR; and all other persons unknown (DOES I through V) claiming any right, title, estate, lien or interest in the real property described in complaint adverse to Petitioners' ownership, or any cloud upon Petitioners' title thereto,

Respondents.

BRIEF OF RESPONDENT FIRST ISLAND
INDUSTRY IN OPPOSITION TO PETITION FOR A
WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT

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QUESTION PRESENTED

Whether Respondents, bona fide purchasers for value, may be deprived of their registered title under Guam's Torrens Act when Petitioners, whose predecessor did not receive statutory notice of the original land registration proceeding but subsequently discovered the decree had been entered failed to challenge its validity within a period of limitations commencing with discovery of the Decree.

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RESPONDENT FIRST ISLAND INDUSTRY'S BRIEF IN OPPOSITION TO PETITION FOR CERTIORARI

STATEMENT OF THE CASE

This action was brought in 1979 as a quiet title action under Guam Civ. Proc. Code § 738. The complaint asserts an action to quiet title to all of a parcel of land (CR 26-1) but appears in substance was filed to vacate a prior Land Registration Decree under which title to only a portion of the property was registered to Respondents' predecessors in interest as a part of Lot B, Dandan, and to establish Petitioners' title to the disputed portion of Lot B against that of Respondents. (TR 144, 195)

Petitioners sought to invalidate the decree because their predecessor, Baldovino Taitague, had not been given notice of the land registration action as required by statute.¹ Respondents argued and the trial court held, that Guam's Torrens Act protects bona fide purchasers for value against claims of persons aggrieved by entry of the original decree. (CR 26-83 p. 4-5) Respondents also

¹ This action was brought in the name of Baldovino Taitague but in 1978, more than a year prior to filing the action, he had conveyed the property to Petitioner Gregorio T. Blas. Ex. 3. Gregorio Blas in 1986 conveyed a one-half interest to Petitioner Henry Blas. Ex. 4. both conveyances refer to the map, *see* pages 4 and 5, *infra*, prepared in 1975 which showed the conflicting prior registration of Lot B, Dandan. In this action Petitioners seek to vindicate their predecessor's right to notice and not their own. Baldovino Taitague did not take any action to vindicate his rights, or to challenge the decree while he still held title.

argued that Petitioners were barred from attacking the decree because they failed to act within the applicable statute of limitations. (CR 26-44, TR 8-10, 170)

Petitioners appealed, and the District Court of Guam Appellate Division affirmed the trial court's decision. Petitioners then appealed to the U. S. Court of Appeals for the Ninth Circuit, which in an unpublished decision, held that Petitioners' challenge to the land registration decree was barred by limitations. Petitioners filed a petition for re-hearing in the Court of Appeals, asserting for the first time that a statute of limitations could not constitutionally be applied to "one who is in complete enjoyment of all that he claims." Pet. Br. at 10.² The petition for re-hearing was denied and the petition for certiorari in this Court ensued.

◆

STATEMENT OF THE FACTS

A. The 1964 Guam Land Registration Action and Subsequent Transfers of Lot B.

In 1964 Pedro and Maria Martinez filed a petition to register their title to a large tract of land in Guam known as Lot B, Dandan, under Guam's Land Title Registration Act, Guam Civ. Code § 1157 *et seq.* A Decree of Registration and Certificate of Title (Ex. A) were issued to them in

² Although not precisely clear from Petitioners' statement of this asserted constitutional argument, Petitioners appear to view this standard as relating to possession of the disputed property

1964.³ Respondents are their successors in interest and Certificate of Title holders to Lot B.

The 1964 land registration was supported by a survey map which provided a legal description in metes and bounds of Lot B. The map shows that the surveyor relied upon a similar 1915 survey map also stating the property description in metes and bounds. (LR 32-64 Ex. 2)⁴

In 1972 the Martinezes sold Lot B to James S. Lee and Co. (Guam), Ltd. and Calvo Finance Corp. (Exs. F and G) A new Certificate of Title was issued to the purchasers in 1974. Ex. B. Further transfers subsequently occurred and new certificates issued as required by the Torrens Act. Exs. C, D and E.

B. Petitioners' Claim.

Petitioners are the successors to Baldovino Taitague and others as claimants to a tract of land referred to herein as the Taitague Land. Their claim of title derives from a 1933 Guam Naval government deed issued when their predecessors redeemed from a tax sale. The 1933

³ The trial court took judicial notice of its file in the Land Registration Case (LR 32-64) and the file was part of the record on appeal.

⁴ Although the "Ugum River" was depicted on both the 1964 and 1915 maps as abutting in part the boundaries of Lot B, the legal description does not refer to the river or its course, nor does it describe the river as a boundary or show that the course of the river modifies the metes and bounds description on either map.

deed did not contain any metes and bounds description of the property or reference to any survey map, but defined the property by general references to adjacent landowners and landmarks. (Ex. 1) The exact location of the property could not be located by reference to the description alone. (Ex. 1)

The Taitague Land has never been registered nor was it surveyed to depict its claimed boundaries until the 1975 survey referred to below. See page 5, *infra*. The uncertain location of the Taitague land was shown at trial when Petitioners relied upon a subsequent survey map which showed a distinctly different configuration to the boundaries of their claim,⁵ although both maps showed the land now in dispute as part of the claim, subject to its prior registration as part of Lot B.

The disputed part of Lot B is rural and isolated. No road leads to that portion of Lot B. (Suppl. TR 5, 10). When the trial judge inspected the property, access was achieved by hiking into the land and wading across the Ugum River. At the time of trial and of the court's inspection of the property there was no indication of any then current usage or occupation of the property.

The trial court found generally that Petitioners had been in possession of the disputed property since the late 1930's, but Respondents contended in the appeals below

⁵ Trial Court Exs. 2 and 5. Part of the land included in the initial 1975 survey had later been determined to belong to others and registered to those other owners. TR 112-113. Notwithstanding these determinations, the area of the later survey was significantly larger than originally claimed and stated in the record title. (Exs. 1, 2, 5)

that this cursory finding was unsupported by the record before the trial court and that the record failed to show possession after 1975. (CR 18 p. 1-2, First Island Industry's Reply Brief at 1-2)⁶

C. Petitioners' Discovery of the Conflicting Title Created by the Land Registration Decree.

In 1975 Baldovino Taitague discovered as a result of the preparation of the initial 1975 survey that a portion of the Taitague land had been registered as part of Lot B under the 1964 decree. The record of the land registration case concededly fails to show that he was given notice of the land registration proceeding. Petitioners testified at trial that Baldovino Taitague had been unaware of and had not received notice of the 1964 land registration case.⁷

⁶ Neither the Appellate Division nor the Court of Appeals disturbed this finding, but those courts did not have before them Petitioners' constitutional argument to this Court regarding the effect of possession on the statute of limitations. Petitioners' current contention, if considered by this court, notwithstanding its lack of constitutional relevance, *see* pages 11-12. *infra*, would give the issue of possession in the period of limitations a significance it did not have based on Petitioners' arguments and theory of the case below.

⁷ Respondents have never conceded that the Taitague Land originally included the portion of Lot B at issue in this action, nor Petitioners' predecessor's alleged use or possession of the disputed portion of Lot B. However, Respondents at trial of this action which occurred twenty-four years after the original registration, were not in a position to and did not offer independent evidence on these issues. At the time of trial, Baldovino Taitague was deceased, as were both Martinezes.

Baldovino Taitague therefore had actual knowledge in 1975 that a petition for land registration had been filed which asserted title to part of what he claimed to be his land, and that a Decree had been entered thereon establishing an independent title under the Torrens Act. He did nothing to vacate the Decree or give notice of any defect therein until 1979, more than three years after his discovery.

The record does not show the original registrants had actual knowledge that Baldovino Taitague was in possession of or had any claim to the disputed portion of Lot B, nor any fraud in the 1964 land registration, nor does the record show that any of the subsequent title holders when they acquired their interests had actual knowledge of any claim or use by Baldovino of the disputed portion of the property until summons was issued and served in 1980, a year after the case was filed. Petitioners have not contended any defect in the Decree was evident on its face. The status of the Respondents as bona fide purchasers for value is confirmed by the court's findings, and is not disputed by Petitioners. (CR 26-83 p. 4)

SUMMARY OF ARGUMENT

1. No federal question is presented because this Court has consistently held that a conflicting claim of title, even though based upon the due process clause or other provision of the constitution, may be barred by limitations if not timely made.

2. Whether a statute of limitation runs against an action to invalidate a Torrens decree, and whether possession is relevant to application of the statute of limitations in such an action, are questions of local law.

3. Petitioners' constitutional claim is based upon the factual premise that they were in possession during the limitations period, which is not supported by the record below.

REASONS WHY CERTIORARI SHOULD NOT BE GRANTED

1. **A Statute of Limitations May Bar an Attack on a Conflicting Title Even When the Conflicting Judgment, Deed or Claim is Said to be Void Under the Due Process Clause or Other Provisions of the Constitution.**

Petitioners admit that the only decision of this Court they cite to their contention that a statute of limitations may not constitutionally run against a person in possession, reached a contrary conclusion. Pets.' Br. at p. 10, citing *Leffingwell v. Warren*, 67 U.S. (2 Black) 599 (1862). Petitioners distinguish that case on the ground that it was decided before the adoption of the Fourteenth Amendment.⁸ But this Court has consistently sustained statutes of limitation as a bar against assertions that a conflicting property claim was void under the Fourteenth Amendment and other constitutional provisions. *United States v.*

⁸ It was, however, decided after the adoption of the Fifth Amendment.

Mottaz, 476 U.S. 834 (1986) (conveyance by United States said to be void and in violation of due process); *Block v. North Dakota ex rel Bd. of Univ. and School Lands*, 461 U.S. 273 (1983); *Northern Colorado Irrigation Co. v. O'Neil*, 242 U.S. 20 (1916) (judgment entered without notice); *Saranac Land and Timber Co. v. Roberts*, 177 U.S. 318 (1900); *Vance v. Vance*, 108 U.S. 514 (1883).

Thus, a statute of limitations can run on a constitutional claim. *Block v. North Dakota*, 461 U.S. at 292. In *Kieley v. McGlynn*, 88 U.S. (21 Wall.) 503 (1875) the Court sustained the conclusive character of a California probate decree against heirs who had not received notice and whose claims had not been asserted within a one year statutory period for attack on the decree, or a three year period for relief based on fraud.⁹ As in this case, the property in *Kieley* had passed to third party purchasers.

Applying a statute of limitations does not shift the burden of proof on the merits of the underlying title issue to Petitioners. That occurred in *Armstrong v. Manzo*, 380 U.S. 545 (1965) and *Coe v. Armour Fertilizer Works*, 237 U.S. 413 (1915), which Petitioners cite, because the Court incorrectly consolidated a challenge to a void judgment with re-litigation of the merits of the underlying action, effectively imposing the burden of proof of the entire

⁹ In their briefs before both appellate courts below, Respondents suggested that Guam's three year statute of limitations applicable to actions based on fraud or mistake, which by its terms runs from the discovery of the cause of action, See Guam Civ. Proc. Code § 338(4) might conceivably apply to persons with claims such as Petitioners, yet Petitioners' claim in this case would have been barred even under the longer three year period of limitations.

controversy upon the person challenging the void judgment. To the extent the burden of proof shifted here, such occurred because of Petitioners' election not only to invalidate the decree because of the lack of notice, but also to establish affirmatively their own title to the property in dispute. Petitioners make no showing that it was necessary for them to go so far in order to attack the decree for lack of notice. No such burden was imposed in *Francisco v. Look*, 537 F.2d 379 (9th Cir. 1976), which involved a successful attack on a Guam registration decree entered without statutory notice, when no innocent purchasers had intervened.¹⁰ Even a void judgment, especially one *in rem* or concerning status (e.g., the adoption decree in *Armstrong v. Manzo*) may subject the person against whom it is entered to some burden in vacating it. That burden arises because such a judgment may by its character still be of practical effect until the person affected by it acts to vacate it. It is not a burden on the merits; it is a burden to assert a violation of a constitutional right.

2. Territories May Regulate Land Ownership Within their Jurisdiction, and Whether a Statute of Limitations Applies in an Action Concerning Title is a Matter of Local Law.

A Territory has the power to determine the manner and conditions of holding title to real property and has a

¹⁰ Even if they had succeeded in vacating the decree, Petitioners would have had to defend against the claims of title contained in the original petition, and might in that case have chosen to assert affirmatively their title, but these are the same burdens and options they would have faced if served originally in the land registration proceeding.

strong interest in the marketability of real property within its jurisdiction, and in resolving disputes as to titles. *Shaffer v. Heitner*, 433 U.S. 186, 207-208 (1977); *Hamilton v. Brown*, 161 U.S. 256 (1896); *Arndt v. Griggs*, 134 U.S. 316 (1890); *Jackson v. Lampshire*, 28 U.S. (3 Pet.) 280, 290 (1830); *Tyler v. Judges of the Court of Registration*, 175 Mass. 71, 55 N.E. 812 (1900).

. . . [A state] has control over property within its limits; and the condition of ownership of real estate therein, whether the owner be stranger or citizen, is subject to its rules concerning the holding, the transfer, liability to obligations, private or public and the modes of establishing titles thereto . . .

. . . The well-being of every community requires that the title to real estate therein shall be secure, and that there be convenient and certain methods of determining any unsettled questions respecting it. The duty of accomplishing this is local in its nature. *Arndt v. Griggs*, *supra*, 134 U.S. at 321-22.

Whether a Territory applies a statute of limitations in resolving disputes as part of its land tenure system is a matter of local policy. The extent to which possession is determinative in local property law, in actions involving title disputes, and in statutes of limitations applicable to such actions is also a matter of legislative choice as to what is beneficial in that jurisdiction. A state may provide by statute to quiet to one person another person's title on the basis of possession without violating the due process clause. *Montoya v. Gonzales*, 232 U.S. 375 (1914). But whether a state does so is a matter of local law, *Block v. North Dakota*, 461 U.S. at 292, and whether a state

prefers possession to record title as a means of settling titles is a matter of local law and policy and not constitutional mandate.¹¹

Petitioners' constitutional argument based on possession relies on a series of cases involving tax deeds, which, with one exception all emanate from state courts. These cases are inapposite. A tax deed purchaser at common law takes his deed subject to all defects in the proceedings and to any challenges to the validity of the sale. 72 Am. Jur. 2d *State and Local Taxation* §§ 948, 981. Unlike a tax deed, the statutory context of this case is a territorial system to determine land titles and to protect owners and bona fide purchasers from claims inconsistent with their title.

3. Possession Is Not A Constitutionally Dispositive Standard to Determine whether a Statute of Limitations May Run.

This Court has not indicated possession is constitutionally dispositive in determining whether a statute of

¹¹ Guam law, at least as to property subject to its Torrens system, relies upon record title and not possession as a means of determining disputes over land titles. Guam Civ. Code § 1157.35 eliminates the concept of constructive notice arising out of possession. See *Sterling National Bank v. Fischer*, 75 Col. 371, 226 P.2d 146 (1924). Guam's Torrens Law also provides a title cannot be acquired to registered land by adverse possession. Guam Civ. Code § 1157.34.

limitations can run and it was not a factor in any of the decisions cited herein. See cases cited at 7-8, *supra*.¹²

Like this case, in *Block v. North Dakota*, and *United States v. Mottaz*, *supra*, the Plaintiffs had actual knowledge of the adverse title claim and yet did not act in a timely manner. The statute of limitations in those cases explicitly ran from the date of discovery of the conflicting claim. The Court of Appeals in its decision below in effect construed the statute in this case to commence to run with Petitioner's discovery of the original decree. Similarly, in *Davis v. Dow Chemical Company*, 819 F.2d 231 (9th Cir. 1987), the Ninth Circuit held that an Arizona statute of limitations would be applied to run from the date of discovery of the cause of action although the statute did not expressly so provide, when the statute would otherwise have violated the Arizona constitution. 819 F.2d at 234, 235.¹³

The California Supreme Court in *McCaslin v. Hamblen*, 37 Cal.2d 196, 231 P.2d 1 (1951), qualified its earlier holding in *Tannhauser v. Adams*, 31 Cal.2d 169, 187 P.2d

¹² Further, it appears that in *O'Neil*, *supra*, 242 U.S. at 24, the party affected by the prior decree had continued in the use of the water rights at issue notwithstanding the decree and therefore had remained in possession. The action was filed to enjoin interference with his ditch.

¹³ A claim that a decree was entered without the original registrant giving notice required by statute, would present a compelling case for tolling of any applicable statute of limitations in an action against an original registrant. See *Glus v. Brooklyn Eastern Terminal*, 359 U.S. 231 (1958).

716 (1947), which Petitioners cite to support their argument regarding possession, as follows:

the rule of inapplicability of statutory limitation has been said to apply as to owners who because of their possession could not be assumed to have actual knowledge of claims of adverse interest by persons not in possession.

McCaslin, 231 P.2d 1 at 3.¹⁴ In this case, the Court of appeals relied upon actual knowledge of the decree as the commencement of the statute of limitations and did not address possession as a basis to impute knowledge or lack of knowledge. That possession relates to knowledge is suggested by the fact that in certain types of *in rem* proceedings such as those in admiralty, or those initiated by attachment, physical seizure of property, where it has the effect of dispossessing others, is viewed as important because it is a means of giving notice of the proceedings to interested parties. *Shaffer v. Heitner*, 433 U.S. at 198; *Tyler v. Court of Registration*, 55 N.E. at 815. Additionally, any rule respecting possession would have no application in the case of unimproved and unoccupied land. *McCaslin*, 231 P.2d at 3. Hence possession is of little relevance and an arbitrary constitutional standard where the land at issue is vacant and Petitioners had actual knowledge of the conflicting decree.¹⁵

¹⁴ The court also qualified its earlier statement in *Tannhauser* that a statute of limitations may not run against a person in possession as being dicta. *McCaslin*, 231 P.2d at 3.

¹⁵ Should the Guam Legislature enact the rule urged by Petitioners the statute would plausibly be subject to attack on due process and equal protection as arbitrary and lacking a rational basis.

A person who claims physical possession but who files an action asserts he has under local law both a cause of action and need for relief if he is to be afforded "all he claims". The issue in this case is record title, since even if the decree is absolutely void as Petitioners contend, they will not have "all they claim" under local law so long as the decree exists which appears valid and is valid as to all persons other than Petitioners¹⁶, yet Petitioners fail to attack the decree, especially in view of the unsettled nature of their own title (*supra* p. 4) and the conclusive character of a Torrens decree under Guam law.

4. Petitioners' Contention That a Statute of Limitations Cannot Run Involves As Well As Questions of Local Law, Factual Issues Not Resolved in the Record.

The Court of Appeals concluded that even without regard to the provisions of the Torrens Act protecting

¹⁶ Guam's Torrens Act provides for notice to be given to known claimants, occupants and adjoining landowners, and for service by publication to unknown claimants. Guam Civ. Code §§ 1157.4, 1157.11. Such notice is constitutionally sufficient. *Hamilton v. Brown*, 161 U.S. 256 (1896); *Arndt v. Griggs*, 134 U.S. 314 (1890); *Tyler v. Judges of the Court of Registration*, 175 Mass. 71, 55 N.E. 812 (1900). Guam in its Torrens Act does not proceed without constitutionally sufficient statutory requirement for notice to known and unknown persons interested in the property, unlike *Armstrong v. Manzo*, 380 U.S. 545 (1965), and *Penoyer v. Neff*, 95 U.S. (5 Otto) 714 (1877). Also, Guam has not improperly attempted to use its power over property located within its jurisdiction to adjudicate claims unrelated to that property, unlike *Penoyer v. Neff*, 95 U.S. (5 Otto) 714, and *Shaffer v. Heitner*, 433 U.S. 186 (1977). Petitioners' untimely claim is based upon the failure to give their predecessor statutory notice, not insufficiency of statutory notice requirements.

subsequent purchasers for value, and assuming lack of notice would give Petitioners a right to relief, Petitioners were barred because they did not act within the time period applicable against original registrants for actions to set aside decrees even if the statute of limitations were tolled until discovery of the decree.

Petitioners now contend that a statute of limitations cannot constitutionally be applied against a person "in complete enjoyment of all he claims." Virtually none of the cases and authorities Petitioners now cite in this connection were cited below prior to the petition for rehearing. Yet the statute of limitations issue was raised in Respondents' answer and argued as an alternate ground of decision to both appellate courts.

Petitioners belated contention undermines their original claim in the trial court that the land registration could never have effect as to them, since it concedes that a statute of limitations can bar a challenge to an otherwise invalid tax deed or decree *in rem*.

In their restated theory the application of the statute of limitations depends upon whether Petitioners were in the relevant limitation period in possession. However, as Respondents contended in the appellate courts below, the trial court's findings do not clearly show possession after 1975 and, equally important, the evidence does not support such a finding. The issue of possession in the limitations period was not specifically addressed or resolved in this case because Petitioners did not raise their constitutional issue in a manner that made it necessary to do so. Certiorari should not be granted to review a belatedly

raised constitutional issue, which depends upon facts not supported by the record.

CONCLUSION

Petitioners' present contention that a statute of limitations cannot run on their claim because they were in possession concedes that a statute of limitations may run if they were not in possession, or, differently stated, that there is no absolute constitutional bar against a local law statute of limitations on claims such as that of Petitioners.

Petitioners misjudge the effect of the unpublished decision of the Court of Appeals.¹⁷ The decision reflects the Petitioners' own neglect and that of their predecessor, and not any departure from established constitutional standards. The decision affects and is of concern only to those persons who, learning of the entry of a decree of registration affecting property claimed by them, without notice to their predecessor in interest, elect to remain silent while the decree remains in effect, inevitably to be relied upon by other persons.

The Court of Appeals in its decision did not seek to diminish any rights available to Petitioners, and to the contrary gave Petitioners the benefit of the assumption

¹⁷ The Court of Appeals concluded its disposition was inappropriate for publication under Circuit Rule 36-2. Accordingly, by the terms of the decision and Court of Appeals Circuit Rule 36-3 which prohibits regarding as precedent or citing an unpublished disposition, the decision of the Court of Appeals has minimal, if any, effect as precedent.

that in an action against an original Registrant the decree could be set aside, and that the period of limitations to do so could be tolled until Petitioners' predecessor knew of the entry of the decree. Yet, the Court of Appeals concluded that even granting such assumptions, Petitioners still would be barred since they and their predecessor failed to act.

Moreover, by deciding the case on such basis the court explicitly did not reach, and therefore preserved, the issue whether the provisions of the Act which protect bona fide purchasers for value, could have barred Petitioners' claim if they, or their predecessor, had acted timely.

The court therefore properly adopted an analysis based on a construction of the Torrens Act that avoided potentially overturning significant portions of the Act on constitutional grounds, and gave the Petitioners the benefit of every potential statutory construction in their favor as well as reasonable opportunity to assert the invalidity of the decree if they had chosen to do so.

The Petition should be denied.

Respectfully submitted,

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APPENDIX

(Statutes as in effect in 1964 and on the filing of this action.)

GUAM CIVIL CODE, § 1157.4

Land brought under the Act by filing petition: contents, etc. All land may be brought under the operation of this Act by the owner or owners of any estate or interest therein, whether legal or equitable (other than an individual share or an easement) by filing with the clerk of the court his or her or their verified petition to the Island Court of Guam, which petition shall set forth the following facts, to wit:

Contents of petition. The full name, occupation, residence, and post office address of the applicant or applicants, and where any applicant appears by any representative because of any disability, also the full name, occupation, residence, and post office address of the person so representing the applicant and the reason for his so acting; if the application is by a corporation, its name, when and where incorporated, its principal place of business, and the names and post office addresses of its president and secretary, and if a foreign corporation, the name and address of the resident agent shall be included in addition to the other requirements; whether or not the applicant is married, and if married, the full name and residence of the husband or wife; and if unmarried, whether he or she has been married, and if so, how the marriage relation terminated, and if the marriage relation terminated by annulment or divorce, where and by what court; that each of the applicants is of full age of

eighteen (18) years and free from any disability, or if a minor or under disability his age and nature of such disability, and if a guardian has been appointed the name and address of the guardian and when and by what court appointed; a description of the land; the value at which the land and permanent improvements, if any, were assessed on the last assessment for taxation.

If the application is by more than one person, any one of whom claims titles in severalty to any part of the land described in the petition, the particular part of the land to which each petitioner severally claims title; a statement of the estate or interest which each applicant has or claims and whether or not the same is community property or is subject to a homestead or to any easement, lien or encumbrance and if so the name and the post office address, if known, of each holder thereof, the nature and the amount of the same, and if recorded, the book and page of the record; a statement of whether or not the land is occupied and if so, the full name and post office address of each occupant, and what interest he has or claims; a statement describing the claim of any other person who has any estate or claims any interest in the land or any part of the land, in law or equity, in possession, remainder, reversion, or expectancy, with the names and post office addresses, if known, of every such person, together with the names and post office addresses of all the owners to the adjoining lands, so far as the same can be ascertained upon diligent inquiry. If the application is by a husband or wife and the property is community property or is subject to a homestead, both spouses must join in the application; persons who collectively claim to own the entire legal estate in fee simple to the whole or

any part of the land may join in the petition; a corporation may petition by its duly authorized agent; the estate of a deceased person by the administrator or executor and a minor or other person under disability by his legal appointed guardian, but the person in whose behalf the application is made shall be named as applicant. [Enacted 1953; amended by P.L. 2-61, effective February 9, 1954.]

GUAM CIVIL CODE § 1157.11

Notice of petition; service; objection or assent to application. When the court shall order notice given a notice must be issued, under the seal of the court, which shall contain the name of the court, the name or names of the applicant, or applicants and a particular description of the land involved, which notice shall be directed to all parties appearing by the petition or the petition and abstract or by the report of the Examiner of Titles if any, to have any interest in the land or any part thereof and which notice shall contain a statement that the petition has been filed by the applicant or applicants for the registration of the title to the land described therein as provided by this Act and praying for a decree declaring the applicant or applicants to be the owner or owners in fee of such land in accordance with the prayer of said petition and which notice shall direct all whom it may concern to appear and answer said petition within ten (10) days after personal service, and that otherwise the court will grant said petition and direct registration of the title to said land in accordance with the terms of this Act, and that said person or persons so served will be forever barred from disputing the same.

Service of petition. When the notice is issued, service thereof shall be made as follows: In all cases said notice shall be published in a newspaper published in the Territory of Guam, said newspaper to be designated by the court, for four (4) successive weeks; if the notice is published in a daily newspaper, publication therein once a week for four (4) successive weeks shall be sufficient. In all cases said notice shall be posted in Agana and posted in at least three (3) places in the district in which the land is located, for such length of time and at such places as may be designated by the court. All parties who have not joined in the petition, or assented thereto in writing, and who appear by the petition or petition and abstract, or report of the examiner of titles to be interested in the fee, all occupants named in the petition and the husband and wife of the applicant, if married, shall be personally served with a copy to the notice, attached to a copy of the petition if they reside in Guam and can, with reasonable diligence, be found and served therein. All owners of adjoining lands who have not give their written consent to the hearing of the petition and who reside in Guam and can, with reasonable diligence, be found and served therein, shall be served with a copy of said notice, without a copy of said petition, personally; provided, that for all applications filed on and after May 1, 1950, the notice as hereinbefore described need not be published in full but it shall be sufficient publication if there is published the following information: the name of the Court in which the application is filed, the name or names of the applicant or applicants, the lot number and municipality of the property to be registered, the civil case number assigned to the application, and a statement referring

interested persons to the clerk of the court for further particulars and for an examination of the notice in full.

Service of notice by mail. As to all persons who have not joined in the petition or who have not in writing assented to the hearing thereof, who do not reside in Guam or who cannot, with reasonable diligence, be found and served therein, a copy of such notice, without a copy of the petition shall, within thirty (30) days after the first publication of such notice, be sent to such party at his last known place of residence, by mail, postage prepaid and if his last known place of residence cannot be, with reasonable diligence, ascertained, then such notice shall be mailed to him in care of the clerk of the District Court of Guam: provided, however, that as to all such persons so to be served by mail who appear by the petition, or petition and abstract, or report of the examiner of titles to be interested in the fee, a copy of the petition shall be attached to the copy of the notice mailed to them as herein provided: provided further, that no copy of abstract, order, or map need be served with any notice.

All persons who claim an interest may appear and object to the granting of the application and if such objection is sustained the cost of the same shall be paid by the applicant; if not, by the person so objecting. The time for appearance shall be ten (10) days after personal service within Guam, thirty (30) days after personal service out of Guam; all persons not required by this section to be served personally shall have sixty (60) days after the first publication of such notice within which to appear.

All persons having or claiming any interest in the land or any part thereof may assent in writing to the registration thereof, and the person thus assenting need not be named as a defendant in the registration proceeding, or, if already named as a defendant need not be served with notice therein. Such assent shall be executed and acknowledged in the manner now required by law for the execution and acknowledgement of a deed and shall be filed with the clerk of the court. [Enacted 1953.]

GUAM CIVIL CODE § 1157.15.

Decree in rem: effect. A decree of the court ordering registration shall be in the nature of the decree in rem, shall forever quiet the title to the land therein ordered registered and shall be final and conclusive as against the rights of all persons, known and unknown, to assert any estate, interest, claim, lien, or demand of any kind or nature whatsoever, against the land so ordered registered or any part thereof, except only as in this Act provided. [Enacted 1953.]

